

**STATE OF ILLINOIS
SECRETARY OF STATE
SECURITIES DEPARTMENT**

IN THE MATTER OF: JOHN A. VEDOVINO)
_____)

FILE NO. 0900029

NOTICE OF HEARING

TO THE RESPONDENT:

John A. Vedovino
(CRD#: 1204606)
16 Keech Briar Lane
Pompton Plains, New Jersey 07444

John A. Vedovino (CRD#:1204606)
C/o Labranche Financial Services, LLC.
33 Whitehall Street
New York, New York 10004

You are hereby notified that pursuant to Section 11.F of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") and 14 Ill. Adm. Code 130, Subpart K, a public hearing will be held at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602, on the 20th day of May, 2009 at the hour of 10:00 a.m. or as soon as possible thereafter, before James L. Kopecky Esq., or such other duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered denying John A. Vedovino's (the "Respondent") registration as a salesperson in the State of Illinois and/or granting such other relief as may be authorized under the Act including but not limited to the imposition of a monetary fine in the maximum amount pursuant to Section 11.E (4) of the Act, payable within ten (10) business days of the entry of the Order.

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The grounds for such proposed action are as follows:

1. That on January 22, 2009, Labranche Financial Services, LLC, a registered dealer, filed a Form U-4 application for registration of John A. Vedovino (the "Respondent") as a salesperson in the State of Illinois pursuant to Section 8 of the Act.
2. That on May 19, 2008 the New York Stock Exchange LLC ("NYSE") entered **NYSE HEARING BOARD DECISION 08-29** (Decision) which imposed the following sanction upon the Respondent:
 - a. censure;
 - b. six-month suspension from membership, allied membership, approved person status, and from employment or association in any capacity with any member or member organization; and
 - c. \$150,000 fine.
3. That the Decision found:
 - a. The Respondent was born in 1958. He entered the securities industry in 1979, as a back office clerk with Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch" or the "Firm"). He later became a sales trader at the Firm and has worked in that capacity at his subsequent employers. The Respondent left the Firm in July 1989 and joined Firm A. The Respondent resigned from Firm A in December 1993 and joined Firm B. In January 1998, the Respondent joined Firm C.
 - b. In March 2000, the Respondent returned to Merrill Lynch as a sales trader on the Firm's equities trading desk.
 - c. The Firm discharged the Respondent in August 2003. The Respondent then joined Firm D where he is employed as a senior managing director.
 - d. In September 2003, Merrill Lynch filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") reporting that the Firm terminated the Respondent's employment on August 4, 2003, for failing to "create accurate records of orders and made post-execution changes in account name and designation."

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- e. By letter dated May 24, 2004, which the Respondent received, Enforcement notified the Respondent that it had opened a formal investigation into the circumstances surrounding his termination.
- f. On May 29, 2007, Enforcement issued a Charge Memorandum against the Respondent.

Summary of Violative Conduct

- f. From January through August 4, 2003 (the "Relevant Period"), the Respondent made over 240 post-execution account name and designation changes involving a certain favored customer, without obtaining prior supervisory approval, thereby giving himself the ability to watch the movement of the market and then to grant preferential treatment to that favored customer. In fact, many of these post-execution changes did result in preferential treatment to the favored customer and/or disadvantage to other customers.

The Respondent's Role and Responsibilities on the Firm's Equities Trading Desk

- g. During the Relevant Period, the Respondent was a sales trader on the Firm's cash equity trading desk. He was located on the Firm's trading floor, located at 4 World Financial Center, New York, New York.
- h. During the Relevant Period, the Respondent handled orders for approximately twelve institutional clients, one of which was Hedge Fund 1. The Respondent engaged in deliberate conduct to favor Hedge Fund 1 over his other institutional clients, because of the relationship he had with an Hedge Fund 1 trader.
- i. During the Relevant Period, the Respondent generally would receive customer orders either electronically or by phone. He was responsible for entering order information into the Firm's Order/Alert System, otherwise known as "Touchpad." Among other things, he entered the name of the customer and the terms of the order, including symbol, size, and price into Touchpad. The Respondent's list of all of his customers, including Hedge Fund 1, was available in the Customer Menu Screen of Touchpad. To enter a customer's order, he had to click on the customer's name in Touchpad.

- j. After entering the order information, the Respondent could send the order through Touchpad to the Firm's booth on the Floor of the NYSE to be represented by a Floor broker, to the NYSE electronically to be represented by a specialist, or to a position trader located on the Firm's trading floor. Orders routed to a position trader would then be displayed on the position trader's screen. Generally, if the Respondent sent an order to a position trader, they would discuss the order before the execution. After the execution of the order, the position trader would send an execution confirmation back to the Respondent through Touchpad.

**The Respondent's Violative Post-Execution
Transfers of Trades for Hedge Fund 1**

- k. NYSE Rule 410(a) states, in relevant part, that before any order transmitted to the Floor, carried to the Floor or entered off-hours is executed, there must be placed on an order slip or other record, the name or designation of the account for which such order is to be executed. In addition, "No change in such account name or designation shall be made unless the change has been authorized by the member or another member, allied member or a person or persons designated under the provisions of Rule 342(b)(1)(¶2342) in his organization who shall, prior to giving his approval of such change, be personally informed of the essential facts relative thereto and shall indicate his approval of such change in writing on the order."
- l. NYSE Rule 476(a)(6) prohibits registered employees of members or member organizations from engaging in conduct inconsistent with just and equitable principles of trade.
- m. NYSE Rule 401(a) requires every member, allied member and member organization to adhere to the principles of good business practice in the conduct of his or its business affairs.
- n. Section 17(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), Rules 17a-3 and 17a-4 thereunder, and NYSE Rule 440 require every member and member organization to make and preserve accurate books and records of the terms and conditions of customer orders, including the accounts for which orders are entered.

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- o. Over a period of at least seven months, the Respondent made over 240 post-execution account name and designation changes on orders involving a favored customer, Hedge Fund 1. The respondent engaged in this activity by entering customer orders via Touchpad, and after such orders were executed, using Touchpad to change the customer on the executed order. Because many of the changes occurred hours after the orders had been executed, the Respondent gave himself the ability to watch the movement of the market and then grant preferential treatment to certain customers. Many of these post-execution changes resulted in profitable trades being transferred to Hedge Fund 1 or unprofitable trades being transferred away from Hedge Fund 1.
- p. The Respondent did not obtain supervisory approval for any of the post-execution account designation changes involving Hedge Fund 1. NYSE Rule 410 was amended on June 17, 2004, effective December 17, 2004.
- q. Below are examples of violative account designation changes that resulted in improper, preferential treatment to Hedge Fund 1.

XYZ Transactions

- r. On April 10, 2003, the Respondent and the Hedge Fund 1 trader had the following exchange regarding the purchase of XYZ:

<u>Time</u>	<u>Sender</u>	<u>Recipient</u>	<u>Content</u>
8 33:09 AM	Trader	Vedovino	[XYZ] u buying me 25 on open right
8 33:42 AM	Vedovino	Trader	yes
8 38:25 AM	Trader	Vedovino	make me money
9 31:00 AM	Vedovino	Trader	you having a gd day
9 31:14AM	Trader	Vedovino	not as great as i need

Several minutes later, the Hedge Fund 1 trader wrote:

<u>Time</u>	<u>Sender</u>	<u>Recipient</u>	<u>Content</u>
9:35:02 AM	Trader	the Respondent	[XYZ] what do you think

Several minutes after that, they continued:

<u>Time</u>	<u>Sender</u>	<u>Recipient</u>	<u>Content</u>
9:40:31 AM	Trader	the Respondent	at 22
9:40:33 AM	Trader	the Respondent	[XYZ]
9:40:36 AM	Trader	the Respondent	should I buy it

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- s. At 9:53 AM the Respondent entered a buy order for Hedge Fund 1 for 25,000 shares of XYZ. The order was executed at 9:54 AM at prices between \$22.55 and \$22.75. Ten minutes later, the market in XYZ on the NYSE dropped to \$22.35, and the Respondent transferred the now-unprofitable purchase to Hedge Fund 2, another hedge fund client of the Respondent's. In doing so, the Respondent diverted an unrealized loss of \$6,295 away from Hedge Fund 1. One minute later, the Respondent transferred the purchase to a Hedge Fund 2 subaccount.
- t. Early that afternoon, the Respondent and the Hedge Fund 1 trader had another IM exchange:

<u>Time</u>	<u>Sender</u>	<u>Recipient</u>	<u>Content</u>
1:18:37 PM	Trader	the Respondent	did you buy me any [XYZ]
1:18:40 PM	Trader	the Respondent	huh did u huh
1:18:42 PM	Trader	the Respondent	at 22
1:18:44 PM	Trader	the Respondent	did u huh
1:18:47 PM	Trader	the Respondent	PLEASE SAY YES

Shortly thereafter, the Hedge Fund 1 trader wrote again:

<u>Time</u>	<u>Sender</u>	<u>Recipient</u>	<u>Content</u>
1:40:24 PM [XYZ] at 22	Trader	the Respondent	we should be long 500k

- u. At 2:09 PM the Respondent entered a buy order for the Hedge Fund 2 subaccount for XYZ for 25,000 shares. The order was executed at 2:12 PM at \$22.25. At 2:17 PM, when XYZ was trading on the NYSE at \$22.50, the purchase was transferred to a Respondent-controlled holding account. The NYSE closing price for the day was \$22.60. At 4:07 PM, the Respondent transferred the now-profitable purchase to Hedge Fund 1, thereby transferring an unrealized profit of \$8,750 to Hedge Fund 1.

ABC Transactions

- v. On February 12, 2003, the Respondent entered four buy orders for Hedge Fund 1 for ABC, between 9:36 AM and 10:52 AM, for a total of 25,000 shares. The orders were executed between 9:37 AM and 10:52 AM at prices between \$28.94 and \$29.37. However, by the time the NYSE closed for the day, the share price for ABC had fallen to \$28.75, which was \$0.19 below the lowest price at which Hedge Fund 1 purchased ABC that day. Between 4:12 PM and 4:13 PM, the Respondent transferred the now-unprofitable purchases to Hedge Fund 3, another hedge fund customer, thereby

- w. diverting an unrealized loss of approximately \$11,500 away from Hedge Fund 1.

DEF Transactions

- x. At 10:51 AM on February 28, 2003, the Respondent entered a short sale order for Hedge Fund 2 for 50,000 shares of DEF. The order was executed between 10:53 AM and 11:04 AM at prices between \$27.37 and \$27.44. At 12:44 PM, when DEF was trading on the NYSE between \$27.00 and \$27.03, the Respondent changed the seller on the transaction to his holding account. Between 12:55 PM and 2:17 PM, the Respondent entered four buy orders for Hedge Fund 3, each for 12,500 shares of DEF, totaling 50,000 shares. These orders were executed between 12:59 PM and 2:40 PM at prices between \$26.89 and \$27.09. At 3:51 PM, the Respondent changed the seller on the initial transactions and the buyer on the latter transactions to Hedge Fund 1, thereby transferring a profit of approximately \$20,000 to Hedge Fund 1.

GHI Transactions

- y. At 9:31 AM on May 15, 2003, the Respondent entered a buy order for Hedge Fund 2 for 50,000 shares of GHI. The order was executed between 9:32 AM and 9:45 AM at prices between \$18.51 and \$18.58. At 10:07 AM, the Respondent changed the purchaser on this transaction to Hedge Fund 3. At 3:59 PM, the Respondent entered a sell order for Hedge Fund 3 for 50,000 shares of GHI, and the order was executed at 4:01 PM at 7:00PM, \$18.60. At approximately 4:27 PM, the Respondent changed the purchaser on the initial transactions and the seller on the latter transaction to Hedge Fund 1, thereby transferring a profit of approximately \$2,500 to Hedge Fund 1.

The Violative JKL Transactions That Resulted In the Respondent's Termination

- z. On the afternoon of July 31, 2003, the Respondent and the Hedge Fund 1 trader had the following exchange:

Time	Sender	Notice of Hearing & Recipient	Content
1:56:18 PM	TRADER	VEDOVINO	Rly don't want to lose money today
1:56:33 PM	VEDOVINO	TRADER	Keeping fingers crossed
1:58:44 PM	TRADER	VEDOVINO	Im meeting an investor tonight for dinner
2:39:32 PM	TRADER	VEDOVINO	Just f**ed my entire day
2:50:29 PM	TRADER	VEDOVINO	Pls tell me u made some money for me
2:56:46 PM	TRADER	VEDOVINO	Cant buy
3:02:01 PM	TRADER	VEDOVINO	DAMN IT
3:02:13 PM	TRADER	VEDOVINO	i lost money today
3:02:18 PM	TRADER	VEDOVINO	i just needed one more good day
3:02:21 PM	TRADER	VEDOVINO	FOR GODS SAKES WHY CANT I GET A BREAK
3:02:29 PM	TRADER	VEDOVINO	
3:02:52 PM	TRADER	VEDOVINO	Im so tired
3:08:38 PM	TRADER	VEDOVINO	Help
3:08:42 PM	TRADER	VEDOVINO	Make it better jonny pls
3:08:46 PM	TRADER	VEDOVINO	Just for today
3:08:52 PM	TRADER	VEDOVINO	U can have it back tmrw
3:18:10 PM	TRADER	VEDOVINO	Anything?
3:20:27 PM	VEDOVINO	TRADER	Hang up
3:20:35 PM	VEDOVINO	TRADER	Please

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- aa. At approximately 4:45 PM that afternoon, the Respondent approached a position trader on the equity arbitrage desk and asked him to execute an internal cross trade for Hedge Fund 4, one of the Respondent's hedge fund clients. The order was for 150,000 shares of JKL. The Respondent asked the position trader to execute the transaction at a share price of \$38.41, which was \$0.65 higher than the closing price of JKL on the NYSE that day. The order was entered at 4:46 PM, and a minute later, prior to execution, the Respondent changed the parties to the transaction using Touchpad. He changed the seller to Hedge Fund 1 and the buyer to Hedge Fund 3. The order was executed at 4:54 PM ("the July 31st trade").

- bb. The following morning, at some point between 9:00 and 9:30 AM, the Respondent approached the position trader and asked him to cross another 150,000 shares for Hedge Fund 4 ("the August 1st trade"). The Respondent told the position trader to execute the trade at \$38.53, which was \$0.12 above the price of the July 31st trade and \$0.77 above the price at which JKL closed on the NYSE on July 31st. The order was entered at 9:22 AM and the transaction was executed at 9:27 AM. At 9:29 AM, the Respondent again changed the parties on the transaction. However, this time he changed the buyer to Hedge Fund 1 and the seller to Hedge Fund 3.

- cc. The effect of the July 31st trade was an end-of-the-month one-day benefit to the Respondent's favored customer, Hedge Fund 1, in that Hedge Fund 1 was on record as having sold 150,000 shares of JKL \$0.65 above the price at which JKL closed for the day. The effect of the August 1st trade was that Hedge Fund 1 purchased JKL at a higher price than that at which the stock opened on the NYSE. Furthermore, Hedge Fund 3 would have received an unrealized profit of \$18,000 for being the contra-party on the transactions.

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- dd. Immediately after the Respondent approached him to enter the August 1st trade, the position trader brought both transactions to the attention of his supervisor. The Firm thereafter canceled the July 31st and August 1st trades and the Respondent was terminated.
 - ee. By engaging in a course of conduct in which the Respondent made improper and unauthorized post-execution account name and designation changes which granted him the ability to grant, and in fact resulted in, preferential treatment to Hedge Fund 1, the Respondent violated NYSE Rule 476(a)(6) and caused violations of NYSE Rules 410(a) and 401. In addition, the Respondent caused a violation of Section 17(a) of the Exchange Act, Rules 17a-3 and 17a-4 thereunder, and NYSE Rule 440 by failing to make and preserve accurate records relating to customer orders.
4. That Section 8.E (1)(j) of the Act provides, inter alia, that the registration Of a salesperson may be denied if the Secretary of State finds that such Salesperson has been suspended by any self-regulatory organization Registered under the Federal 1934 Act or the Federal 1974 Act arising from Any fraudulent or deceptive act or a practice in violation of any rule, regulation or standard duly promulgated by the self-regulatory Organization.
 5. That NYSE is a self-regulatory organization as specified in Section 8.E(1)(j) of the Act.
 6. That by virtue of the foregoing, the Respondent's registration as a Salesperson in the State of Illinois is subject to denial pursuant to Section 8.E (1)(j) of the Act.

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You are further notified that you are required pursuant to Section 130.1104 of the Rules and Regulations (14 ILL. Adm. Code 130)(the "Rules"), to file an answer to the allegations outlined above within thirty (30) days of the receipt of this Notice. A failure to file an answer within the prescribed time shall be construed as an admission of the allegations contained in the Notice of Hearing.

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to so appear shall constitute default, unless any Respondent has upon due notice moved for and obtained a continuance.

A copy of the Rules, promulgated under the Act and pertaining to hearings held by the Office of the Secretary of State, Securities Department, is included with this Notice.

Delivery of Notice to the designated representative of any Respondent constitutes service upon such Respondent.

Dated: This 23rd day of March 2009.



JESSE WHITE
Secretary of State
State of Illinois

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